IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Crl.Rev.Pet.No. 105 of 1998()

CRRP.9/1997 of SESSIONS COURT, MANJERI DT.26.7.1997
MC.107/1994 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, MANJERI
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REVN. PETITIONER: RESPONDENT/ COUNTER PETITIONER

THANNIKUZHI SEKHARAN,
SON OF RAMAN MUTHAN,
CHELORA, KIZHAKKE, CHATHALLOOR P.O.,
OTHAYI (VIA) EDAVANNA

BY ADV. SMT.VANAJA MADHAVAN

RESPONDENTS: REVISION PETITIONER/ PETITIONERS
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1. **CHELIKKODAN ALIAS KOLIKKODAN,**
   SAROJINI, D/O.CHATHUNNI,
   KOLPPAD POST ERANHIKODE
   VIA, EDAVANNA (EDAVANNA POLICE LIMITS)
   MALAPPURAM.

2. **THANNIKUZHI DHANIYA (MINOR)**

3. **THANNIKUZHI BABY (MINOR)**

   (RESPONDENTS 2 AND 3 REP.BY THE 1ST RESPONDENT-MOTHER AND NATURAL GUARDIAN.)

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.MP. 664/1998 IN CRLRP. 105/1998

DISMISSED

22.06.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

Crl. R.P. No.105 of 1998

Dated 22nd June, 2007

ORDER

The revision petitioner is the respondent in M.C.107/94, the proceedings initiated under section 125 Cr.P.C for maintenance. The respondents herein- the alleged wife and two children claimed maintenance from the revision petitioner at the rate of Rs.500/-. The revision petitioner denied the claim and paternity of the 2nd child. According to him he had a fall and sustained fracture and unable to walk and no earnings.

2. The evidence adduced in the matter consisted of the testimony of PW-1, the wife, and Exts. P1 to P5 and RW-1. On a consideration of the evidence adduced in the matter, the courts below have concurrently held that the petitioner had a marriage earlier and that the above marriage stands not dissolved and hence, there is no legal validity to the second marriage. PW-1 has admitted the fact that the marriage with the respondent/revision

petitioner is the second marriage. Hence, it was found that the first marriage is not legally dissolved and she is not entitled to claim the status of wife. Hence, maintenance was disallowed to the Ist respondent. Maintenance to the children was awarded at the rate of Rs. 150/- to the 2nd petitioner and Rs.100/- to the 3rd petitioner. The appellate court enhanced the amount at the rate of Rs.400/- to the 2nd petitioner and 250/- to the 3rd petitioner. There is no representation for the respondents before this court.

3. It is the contention of the counsel for revision petitioner that there is no objective evidence as to the income of the revision petitioner/respondent. I find that the petitioner has produced Ext.P4 possession certificate issued from the village officer certifying that the respondent is having possession of 4.6 acres of land. RW-1 has denied the same. The court below has relied on the admission of RW-1 that he had obtained Rs.11,500/- from the Block office to construct a house. The respondent has not adduced any objective evidence to prove the fact

that he is under treatment and that he had sustained fracture etc. I find that the amount awarded cannot be said to be excessive in the light of the evidence adduced in the matter. I find no grounds to interfere in exercise of the revisional jurisdiction of this Court. All the same, it is submitted that in the order of the appellate court it is mentioned in the last sentence of para 6 that the Ist respondent is awarded a sum of Rs.400/- per month is a mistake. Instead of ` 2nd respondent' it has been wrongly mentioned as `Ist respondent'. It is clarified that maintenance awarded is with respect to respondents 2 and 3 and not to the Ist respondent wife. The Crl.R.P is dismissed.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. 105 OF 1998

ORDER

22-6-2007.